

Remarks

Allowable subject matter

The Examiner has indicated that original dependent claims 5, 6, and 8-10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As a result, Applicant has presented new independent claim 31 that incorporates all the limitations of claim 5, new independent claim 32 that incorporates all the limitations of claim 6, new independent claim 33 that incorporates all the limitations of claim 8, and new dependent claims 34 and 35 corresponding to claims 9 and 10. In addition, Applicant has presented new method claims 36-40 corresponding to new system claims 31-35, respectively, and new system claims 41-45 each including reciting a digital processor, likewise corresponding to new system claims 31-35, respectively. To avoid duplication, claims 5, 6, 8, 9 and 10 have been cancelled. It is respectfully submitted that new claims 31 through 45 are in order for allowance and early notice to that effect is respectfully requested.

Subject matter of new claims 19-30

The subject matter for new claims 19-30 was derived as follows:

A) The subject matter of dependent claim 5 has been incorporate into the subject matter of independent claims 1, 13, and 16, without any intervening claims, and has resulted in new claims 19, 20, and 21, respectively.

B) The subject matter of dependent claim 6 has been incorporate into the subject matter of independent claims 1, 13, and 16, without any intervening claims, and has resulted in new claims 22, 23, and 24, respectively.

C) The subject matter of dependent claim 8 has been incorporate into the subject matter of independent claims 1, 13, and 16, without any intervening claims, and has resulted in new claims 25, 26, and 27, respectively.

D) The subject matter of dependent claim 9 has been incorporated into the subject matter of independent claims 1, 13, and 16, without any intervening claims, and has resulted in new claims 28, 29, and 30, respectively.

It is respectfully submitted, therefore, that new claims 19-30 are in order for allowance and early notice to that effect is respectfully requested.

Claims Rejections - 35 USC § 102(b)

The Examiner has rejected claims 1-3, 7, 11, 13, 14, 16, and 17 under 35 USC §102(b) as anticipated by Thomas, et al. U.S. Patent No. 5,526,427. This rejection is respectfully traversed.

The examiner has misread the language of claims 1, 13 and 16. Each recites a, “predetermined message *symbol* being represented by first and second code symbols ... with at least one code symbol representing a *different* one of the message symbols ... positioned in time between the first and second code symbols.” Instead the examiner has asserted that these claims recite “predetermined message *symbols* represented by first and second code symbols”

Consequently, the examiner has taken the position that, “Figure 4 [of Thomas et al.] shows at least four symbols in time slots, with at least one symbol (e.g., local tv station id) between two other symbols (e.g. network id and show id).” This observation is *totally irrelevant*, since Thomas et al. fail to disclose or even suggest the actual limitation of claims 1, 13 and 16 set out above, that is, a predetermined message symbol represented by first and second code symbols, wherein a further code symbol representing a different message symbol is positioned in time between them.

This application previously was finally rejected and an appeal taken therefrom by Applicants. The Examiner withdrew his unsustainable rejection *only* after Applicants incurred the expense and delay occasioned by the filing of a Notice of Appeal and an Appeal Brief. Now the Examiner has entered a further *unsustainable* rejection.

Applicants are therefore left to wonder when, if ever, their demonstrated right to a patent with the same claims whose rejection previously was appealed, will at last be acknowledged by the US Patent and Trademark Office.

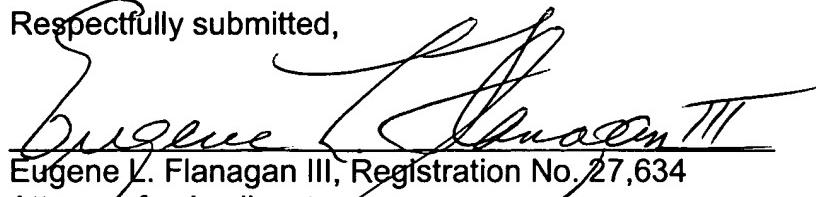
Accordingly, Applicants again respectfully submit that claims 1, 13 and 16 are patentable over the prior art. Since each of claims 2, 3, 7, 11, 14 and 17 depends from one of claims 1, 13 and 16, it is respectfully submitted that these claims as well are patentable over the prior art.

Claims Rejections - 35 USC § 103

The Examiner has rejected claims 4, 12, 15, and 18 under 35 USC §103(a) as being unpatentable over Thomas et al. et al., U.S. Patent No. 5,526,427, in view of Jensen et al. Since each of claims 4, 12, 15 and 18 depends from one of allowable claims 1, 13 and 16, it is respectfully submitted that each of these claims is likewise patentable over the prior art.

For the foregoing reasons, Applicant respectfully submits that all pending claims, namely Claims 1-45, are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,



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